OPINION
53-12

May 25, 1953 (OPINION)

BONDING FUND

RE: Increase in Premium

You have presented to this office an inquiry as the effect of House Bill No. 629 enacted by the recent session of the Legislature. The questions you present are as follows:

> "Will applications for bonds of public officials and employees that are received by the State Bonding Fund before July 1, 1953, be subject to premium charge after said date, or will they be free of premium charge for the term of office of official or employee even though such term may extend beyond July 1, 1953?"

> "Am I correct in assuming that all new bonds which term begins after July 1, 1953, will be subject to premium charge? Also, will there be any premium charge after July 1, 1953, for any increase in the amount of bonds carried if the bond itself was issued on a free basis before such date?"

House Bill No. 629 is not an emergency measure and does not become effective until July 1, 1953. Therefore, at the present time the State Bonding Department is operating under the law that existed prior to the enactment of House Bill No. 629, to-wit, section 26-2306 of the 1949 Supplement to the North Dakota Revised Code of 1943. This law in effect as of this date provides:

> "The minimum premium for each public employee shall be two dollars and fifty cents per year. Unless the term of office or employment shall be for a shorter period, payment shall be made for one year or for such longer terms as the commissioner may prescribe."

From this, it is our opinion that any municipality requesting a bond for one of its public officials prior to July 1, 1953, that said bond must be issued under the law as it is today. Such bond unless specifically enlarged by the commissioner shall run for only one year. No premium may be collected upon such bond prior to July 1, 1953, unless the State Bonding Fund shall be depleted below the sum of one million dollars. The answer, therefore, to first question is that no premium may be charged for the term of office of an official or an employee even though such term may extend beyond July 1, 1953. After the end of one year from the date of issuance of said bond premiums may be charged in accordance with House Bill No. 629.

Answering your second question, it is the opinion of this office that after July 1, 1953, all bonds then applied for must be charged a premium in accordance with House Bill No. 629 until the reserve fund for the State Bonding Department shall exceed two and one half million dollars.

You further ask whether or not any increase in the amount of the bond applied for after July 1, 1953, should be charged for under House Bill No. 629 even though the original bond was issued prior thereto. It is the opinion of this office that any bond or enlargement or additional bond furnished after July 1, 1953, must be charged for in accordance with the provision of House Bill No. 629.

ELMO T. CHRISTIANSON

Attorney General